Supreme Court, U.S.
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(2)

No. 96-1458

In The

# Supreme Court of the United States

October Term, 1996

SIDNEY VERDIN, JAKE BILLIOT, WICKLIFF VERDIN, AUTHOR BILLIOT, ALTON VERDIN, JAY NAQUIN, JOHN VERDIN, JR. AND FOREST BILLIOT, JR.,

*Petitioners,*

versus

THE LOUISIANA LAND AND EXPLORATION COMPANY,

*Respondent.*

**On Petition For Writ Of Certiorari To The Louisiana Supreme Court**

## RESPONDENT'S BRIEF IN OPPOSITION

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27 pp

## RESTATEMENT OF QUESTION PRESENTED FOR REVIEW BY PETITIONERS

Is a state court deprived of its jurisdiction to determine whether it has jurisdiction in a possessory/trespass action merely because the defendants have made the unsupported and conclusory claims that they are "Indians", and that the property involved is "Indian country", in their pleadings filed in defense of that action?

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## RESPONDENT'S BRIEF IN OPPOSITION

Respondent requests that the Court deny the petition for writ of certiorari seeking review of the opinion of the Louisiana First Circuit Court of Appeal reported at 681 So.2d 63 (La. App. 1st Cir. 1996). That opinion is reproduced commencing at page 1a of the petition and is herein referred to as the Court of Appeal's opinion or decision.

## STATEMENT OF JURISDICTION

This Court should not exercise jurisdiction over this case pursuant to 28 U.S.C.A. § 1257 or Supreme Court Rule 10(b) or (c) because there is neither an important federal question involved nor does the Court of Appeal's decision conflict with any decision of this Court.

## STATEMENT OF THE CASE

The premise of petitioners' argument for a writ is that a state court has no power or authority to determine whether it has jurisdiction over a possessory action merely because the defendants have made the unsupported and conclusory claims, as a defense, that they are members of an unrecognized "Indian" tribe with aboriginal rights to the involved property, which they allege to be "Indian country". That premise is squarely in conflict with this Court's decision in *Stoll v. Gottlieb*, 305 U.S. 165, 50 S.Ct. 134, 83 L.Ed 104 (1938); it is being advanced by petitioners solely to achieve forum shopping between

state court and federal court. A brief review of the course of proceedings and disposition of this case by the lower courts illustrates the petitioners' fulsome efforts to achieve forum shopping in this case.

## I. Course of Proceedings and Disposition of the Case Below.

Respondent commenced its suit in the Louisiana state district court against petitioners in connection with Respondent's efforts: (1) to remove two unattended and illegal butterfly shrimp nets which had been placed without its authorization in a private canal on its posted marshland property; and (2) to prohibit further acts of trespass in two sections (approximately 1280 acres) of Respondents's property in proximity to the illegal nets. Contrary to the misleading implications in both petitioners' statement of the Question Presented for Review (petition, p. i) and footnote 1 in the petition (p. 2), none of the petitioners has ever lived on the marshland property at issue and none of them has been displaced in any way by the judgment of the state district court or the Court of Appeal's decision. The illegal shrimp nets that Respondent sought to have removed had not been installed for some tribal communal purpose; they had been installed through acts of trespass by certain of the petitioners for their own profit.

After unsuccessfully trying to remove the case to the federal district court for the Eastern District of Louisiana on the ground that the federal court had exclusive and preemptory jurisdiction over the controversy merely because the petitioners had made the unsupported and

conclusory claims, as a defense, to be members of an unrecognized "Indian" tribe and that the acts in controversy occurred within "Indian country" (*The Louisiana Land and Exploration Company v. Sidney Verdin, et al.*, C.A. No. 93-2970), the petitioners (joined by others) then filed their own suit in the same federal court (*Verdin, et al. v. The Louisiana Land and Exploration Company*, C.A. No. 93-3537, the "federal suit") claiming to be members of an unrecognized "Indian" tribe with aboriginal rights over not just the approximate 1280 acres involved in Respondent's state court proceeding, but also many thousands of acres of marshland property owned by others, all of which they claimed to be "Indian country".

In recognition of the pending effort by the alleged tribe for the plaintiffs in the federal suit to obtain federal recognition as an Indian tribe from the United States Bureau of Indian Affairs, the federal court (on Respondent's motion) chose to stay further proceedings in the federal suit pending the final determination of that federal recognition process in regard to plaintiffs' alleged tribal status.[1] Following the issuance of the BIA's negative recommendation of recognition of such tribal status issued to the Secretary of the United States Department of

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[1] The BIA later issued a recommendation to the Secretary of the United States Department of Interior against such recognition, 59 Fed. Reg. at 66118: "The petitioner maintains that they are the descendants of the historical Houma Indian tribe. There is no evidence supporting this contention. . . . There is also no evidence that the petitioner, as a group, descends from any other historical tribe, or from historical tribes which combined and functioned as a single autonomous entity."

Interior, petitioners then attempted to disassociate themselves from that unsuccessful effort by claiming tribal affiliation with at least two other groups, neither of which has any status as a federally recognized Indian tribe.

The petitioners subsequently presented to the state court, at a pre-trial hearing, an exception to its jurisdiction based on the same removal arguments that had been rejected by the federal court (e.g., that there is no state court jurisdiction because **they have alleged** that they are members of an "Indian" tribe and **they have alleged** that the acts in controversy occurred within "Indian country"). Those arguments were rejected by the state court because petitioners offered no proof whatsoever of either Indian tribal affiliation or the status of the property as "Indian country." (See Oral Reasons for Judgment Regarding the Defendants' Exception of Lack of Subject Matter Jurisdiction (copy included in petition, commencing at p. 11 a). Petitioners sought a supervisory writ of review from that determination, which was similarly rejected by the state appellate court. (petition, p. 21 a.)

On the eve of trial in state court, petitioners once again attempted to remove the case to federal court (*Louisiana Land and Exploration Company v. Sidney Verdin, et al,* C.A. No. 95-2447), raising the same "preemptive" jurisdictional arguments (i.e., their allegations of being members of an "Indian" tribe, and involvement of "Indian country") that had been previously rejected by the federal court. They were rejected again, with sanctions being imposed on the petitioners for the improvident removal.

At trial of the possessory/trespass action in the state court, the petitioners did not offer one shred of evidence

to support their conclusory claims of "Indian" tribal status or that the approximate 1280 acres somehow constituted "Indian country." Nor did they offer **any** evidence of possession of that property. (Respondent offered overwhelming evidence of its historical possession of that property to the extent of its title.) Since no evidence was offered by petitioners which in any way suggested that the state court's jurisdiction was interdicted in any respect by any federal law, the state court went on to recognize and maintain Respondents' possession of the approximate 1280 acres. It also enjoined the Verdin petitioners from committing further acts of trespass and awarded Respondent compensation for damages inflicted on the property by the Verdin petitioners in furtherance of their illegal shrimping activities. (*See* August 7, 1995 Judgment (copy attached hereto as Appendix A)).

The district court's opinion was affirmed by the Court of Appeal's decision, and the Louisiana Supreme Court denied writs. (petition, p. 9 a).

The petitioners now seek this Court's intervention in an attempt to effect their forum shopping on the same "preemptive" jurisdictional argument based on their unsupported and conclusory allegations of "Indian" status and "Indian country" which has been consistently rejected by all lower courts, state and federal.

## II. Correction of Misstatement in the Petition as to Relief granted by the State Court.

The state court did not enter "an order of ejectment,"[2] as misrepresented by petitioners in their Question Presented for Review (petition, p. i). To the contrary, the state court rendered judgment pursuant to and in conformity with La. Code Civ. Proc. art. 3662: (i) recognizing and maintaining Respondent's historical possession of the property involved in the suit, (ii) enjoining further acts of trespass thereon, and (iii) awarding damages to Respondent caused by the Verdin petitioners' trespasses. (*See* August 7, 1995 Judgment, at ¶¶ 1-4 (copy attached hereto as Appendix A)).

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[2] No such order or relief exists under Louisiana law. Under Louisiana law, a possessory action can be brought either by one in possession who seeks to be maintained in possession against disturbances or by one seeking to be restored to possession within one year of being evicted. (La. Code Civ. Proc. art. 3655). Relief awarded in a possessory action is either to be restored to possession, if evicted, or to be maintained in possession, if a disturbance has not caused an eviction, with an order compelling the defendant to assert an adverse claim to ownership in a petitory action filed within statutorily prescribed time limits, and damages where appropriate. (La. Code Civ. Proc. art. 3662(1)(2) and (3).)

## REASONS FOR DENYING THE WRIT

### I.

### THIS COURT HAS NO JURISDICTION TO CONSIDER PETITIONERS' ARGUMENTS.

This Court does not review decisions of state courts unless either a federal question has been decided in a way that conflicts with the decision of another state court of last resort or a United States court of appeal or this Honorable Court [28 U.S.C.A. § 1257, Sup. Ct. R. 10.1.(b) and (c)].

There is no important question of federal law involved in this matter. Although petitioners attempt to create the chimera of such a conflict by inappropriately citing this court to certain decisions **involving federally recognized tribes and/or members thereof and/or to specific lands held in trust by the United States for federally recognized tribes and/or members of such tribes and/or specific lands statutorily created as "Indian country,"** the petitioners well know that none of those decisions relates either to their circumstances of not having any federal recognition of their alleged tribal status, or to Respondent's property, which is not "Indian" trust lands or statutorily prescribed "Indian country." [See, for example, petitioners' insidious references to *Boisclair v. Superior Court*, 801 P.2d 305 (Cal. 1990); *Jicarilla Tribe v. Board of County Commissioners*, 118 N.M. 550, 883 P.2d 136 (N.M. 1994) and *Ollestead v. Native of Village of Tyonek*, 560 P.2d 31 (Alaska 1977) and the several federal statutes cited in the petition, all of which relate to or involve federally recognized Indian tribes and/or specific trust lands].

None of the decisions cited by petitioners purports to hold, and none of the statutes they cite purports to suggest, that mere unsupported and conclusory allegations of "Indian" tribal status or "Indian country" deprives a state court of its jurisdiction to determine whether it has jurisdiction over the individuals or property at issue. To the contrary, the lower court decisions in this case recognizing that state courts do have such jurisdiction are all consistent with applicable authorities, including the paramount and controlling decision of this Court in *Stoll v. Gottlieb*, 305 U.S. 165, 50 S.Ct. 134, 137, 83 L.Ed. 104 (1938), recognizing that:

> "a court must have the power to determine whether or not it has jurisdiction of the person of a litigant or whether its geographical jurisdiction covers the place of occurrence under consideration."

Thus, there is no jurisdictional basis which supports petitioners' writ.

## II.

## IN ANY EVENT, THE STATE COURT PROPERLY DETERMINED THAT IT HAD JURISDICTION TO DETERMINE ITS OWN JURISDICTION OF RESPONDENT'S STATE COURT SUIT.

### A. Petitioners cannot be allowed to manipulate jurisdiction under the guise of federal preemption based on unsupported and conclusory allegations of "Indian" status or involvement of "Indian country".

The petitioners in this [illegible] accuse Respondent of "manipulation of state and federal courts" (petition, p. 15) because **petitioners** were twice unsuccessful in removing Respondent's state suit on grounds of complete federal preemption. They further accuse Respondent of "duplicity" (petition, p. 15) and engaging in "perfidy" (petition, p. 16), because the federal court chose to stay the federal suit petitioners (and others) filed against Respondent as a back-up to their unsuccessful effort at removal. To the contrary, it is the perfidious petitioners who seek to achieve manipulation of forums. The purpose of their petition for this writ is no more than to obtain an improper and collateral review of their unsuccessful efforts to effect forum shopping in federal court through improper removals of Respondent's state court suit.

The federal court, on the initial remand of Respondent's state suit back to the state court, properly determined, consistent with prior decisions of this Court which are discussed below, that mere unsupported and conclusory allegations of "Indian" tribal status or the

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involved property being "Indian country" pled by petitioners in defense to Respondent's state suit neither established federal jurisdiction nor preempted state court jurisdiction:

> [a]lthough defendants submitted affidavits and a memorandum to the Court to establish both its protected status as Houma Indians/Lower Pointe Au Chien Tribe and its claims to the land at issue, **it has not yet been established that defendants are members of a protected tribe, that the property at issue is Indian land or that the named defendants have possessory rights to this land.** These issues will be addressed in this court in the related case 93-3537 [(the petitioners' federal suit)]. Because federally protected status is not a definitive factor in this case, plaintiff's claim is not necessarily stating a federal cause of action.
>
> 1994 U.S. Dist. Lexis 10337, *3 (E.D. La. July 27, 1994)

The recognition by the lower courts that a court must have the power to determine its own jurisdiction is consistent with controlling decisions of the United States Supreme Court which should not be overruled or modified; following those controlling decisions does not result in conflicting decisions or injustice to anyone in this case. Since the desired remedy the petitioners seek can still be pursued in their (now stayed) federal court suit, denial of review by this Court in this case will not cause material injustice nor will it affect the public interest. By doing what courts do in each and every case, either expressly or tacitly, *i.e.*, determine its jurisdiction,

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it cannot be argued that there has been any departure from proper judicial proceedings. The petitioners' unhappiness with their unsuccessful efforts to change the forum of this case to federal court obviously is not an appropriate reason for review by this Court.

**B. Courts Always Have the Power to Determine Their Jurisdiction.**

The United States Supreme Court has long recognized:

> Where adversary parties appear, **a court must** have the power to **determine** whether or not it has **jurisdiction of the person of a litigant** or whether **its geographical jurisdiction** covers the place of the occurrence under consideration. Every court in rendering a judgment tacitly, if not expressly, determines its jurisdiction over the parties and the subject matter.

*Stoll v. Gottlieb*, 305 U.S. 165, 50 S.Ct. 134, 137, 83 L. Ed. 104 (1938) (footnote omitted, emphasis added).

In this case, the petitioners make the same argument to this Court which has been rejected by all other state and federal courts to which it has been presented: that is, there is no state court jurisdiction merely because **they have alleged** that they are members of an Indian tribe and **they have alleged** that the dispute with Respondent occurred within Indian country.

Under *Stoll*, it is clear that the court must have the power to determine whether its geographical jurisdiction covers the place of the occurrence under consideration. In this case, the court was called upon to determine whether

the trespass occurred within "Indian country." Rather than try to show that it was "Indian country," the petitioners took the position that their mere allegation that the court lacked jurisdiction precluded the court from determining whether it in fact had jurisdiction.[3] The petitioners' assertion, that a court cannot determine its jurisdiction because a wrong determination of jurisdiction would result in a prohibited adjudication of the merits, has been flatly rejected by the United States Supreme Court in *Stoll*:

> An erroneous affirmative conclusion as to the jurisdiction does not in any proper sense enlarge the jurisdiction of the court until passed upon by the court of last resort, and even then the jurisdiction becomes enlarged only from the necessity of having a judicial determination of the jurisdiction of the subject matter.

*Id.*

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[3] To the contrary, Respondent proffered evidence from the United States Government's Bureau of Indian Affairs ("BIA") which confirmed that it had "no records showing federal trust or federally recognized Indian lands within Sections 27 and 28." R. 465. The BIA is charged with the responsibility of recording and maintaining records of all lands held in trust by the United States for individual Indians or tribes. *See* 25 C.F.R. § 150.1 *et seq.* *See also* 59 Fed. Reg. at 66118 where in connection with its recommendation not to recognize the Houmas Indians (which the defendants now try to distance and disassociate themselves from) the BIA found:

> "The petitioner maintains that they are descendants of the historical Houma Indian tribe. There is no evidence supporting this contention."

Following the *Stoll* principle, Louisiana courts have long recognized that a court cannot dismiss for lack of subject matter jurisdiction on mere allegations:

> It is an indisputable proposition that where a question of law can be determined only after a question of fact has been investigated and settled, the court which is called upon to solve the former, must necessarily pass primarily on the latter.

*State v. Voorhies*, 35 La. Ann. 1142, 1143 (La. 1882). *See also Jefferson v. Gamm*, 90 So. 682, 685, 150 La. 372 (La. 1922) ("every court has jurisdiction to determine questions of fact upon which depend the question whether the court has jurisdiction of any particular case."); *Morrison v. H.B. Mitchell Const. Co.*, 392 So.2d 1102 (La. App. 1st Cir. 1979); and *Smith v. Gretna Machine Iron Works*, 617 So.2d 144 (La. App. 5th Cir. 1993).

### C. There is No "Indian Exception" to the *Stoll* Principle That Courts Have the Power to Determine Their Jurisdiction.

The petitioners' attempt to create the appearance of an exception to the *Stoll* principle where Indians are involved is also flatly rejected by decisions of the United States Supreme Court. In *DeCoteau v. District County Court*, 420 U.S. 425, 95 S.Ct. 1082, fn. 2 at 1084, 43 L. Ed. 2d 300 (1975), the United States Supreme Court recognized that South Dakota state courts could determine whether lands constituted "Indian Country" (as statutorily defined in 18 U.S.C.A. § 1151) for purposes of

determining whether they had civil and criminal jurisdiction. Citing *DeCoteau*, the Supreme Court recently reaffirmed its recognition that a state (Utah) court could determine whether lands constituted "Indian Country" for jurisdictional purposes. *Hagen v. Utah*, 510 U.S. 399, 114 S.Ct. 958, 127 L. Ed. 2d 252 (1994).

*DeCoteau* has previously been relied upon by a Louisiana court. In *Barbry v. Dauzat*, 576 So.2d 1013 (La. App. 3d Cir. 1991), *cert. denied*, 578 So.2d 136 (La. 1991), the appellant made the same argument that the defendants make here, *i.e.* that the district court lacked subject matter jurisdiction for a child custody proceeding because the father and child were alleged members of an Indian tribe and were residing on Indian lands. Citing *DeCoteau* the court held:

> a determination of whether the tribal or state district court has jurisdiction over the subject matter and person of the minor child, because he is an alleged member of the Tunica-Biloxi Indian Tribe and is domiciled and residing on the Reservation, would first depend on whether or not the minor child is an Indian child. . . . We find, for the purposes of ruling on the relator's alternative contention that the state court lacks jurisdiction, because relator and the minor child are Indians, who are citizens of a sovereign nation residing on the Reservation, which is a sovereign nation, that we must make such a determination.

*Id.* at 1021.

The same type of determination that was made by the state courts in *DeCoteau, Hagen* and *Barbry* is proper in this case as well.

**D. Petitioners have totally misrepresented the Application of Public Law 280.**

In narrowing their own creation of an "Indian exception" to the *Stoll* principle (that courts have the power to determine their jurisdiction), the petitioners totally misrepresent the application of Public Law 280, 28 U.S.C.A. § 1360. Contrary to the petitioners' assertion, that statute did not take away any state court powers; rather, in an effort to shift the burden and costs to the states, it **granted** jurisdiction to **certain** states over general civil and criminal claims arising on "Indian country."[4] Other states, like Louisiana,[5] have no jurisdiction, civil or criminal, where the place of the occurrence under consideration is within "Indian country." However, under the petitioner's version of this law, "Indian country" would extend to whatever a defendant claimed it to be. Thus, in Louisiana, in any civil or criminal matter, a defendant could allege that he was an Indian and the occurrence at issue was within Indian land and, under the petitioners' argument, the state court would have to dismiss each and every such case because it was powerless to determine its jurisdiction! *Stoll*, *DeCoteau* and *Hagen* clearly show that is not the law.

---

[4] Federal law defines "Indian country" as (a) Indian reservation land; (b) dependent Indian communities; and (c) Indian allotments (18 U.S.C.A., § 1151).

[5] "Louisiana is **not** a P.L. 280 state." *Langley v. Ryder*, 778 F.2d 1092, 1095 (5th Cir. 1985) (emphasis in original).

**E. The state cases cited by petitioners are inapplicable because they involved federally recognized tribes and/or lands designated as, or concluded to be, trust lands for Indians.**

The state cases cited by the petitioners are inapplicable **because they involved federally recognized Indian tribes and/or lands statutorily designated, or conceded, to be held by the United States in trust for Indians.** In *Boisclair v. Superior Court*, 801 P.2d 305, 307-15 (Cal. 1990) leaders of a federally recognized Indian tribe obtained the dismissal of a suit concerning rights to a road traversing "what both sides concede to be Indian land." In addition, note the more recent criticism of *Boisclair* in *Jicarilla Apache Tribe v. Bd. of County Commissioners*, 118 N.M. 550, 883 P.2d 136, 143 (N.M. 1994) ("With deference, we do not believe that any such 'complete preemption doctrine' with respect to disputes over property rights on Indian land has ever been enunciated by the U.S. Supreme Court or that any such doctrine would be appropriate in defining the scope of [28 U.S.C.] § 1360(b)."). In *Ollestead v. Native of Village of Tyonek*, 560 P.2d 31 (Alaska 1977), a suit was filed against a federally chartered corporation established under federal Indian law by a federally recognized Indian tribe alleging rights to share in proceeds from property expressly held in trust by the United States for the benefit of the tribe; a determination of whether Indians or Indian trust property was involved was not required.

Thus, the state court properly determined that it had jurisdiction over Respondent's suit in any event.

## CONCLUSION

This case is not "writ worthy." Petitioners have not shown that the lower court's determination, that a state district court has the power to determine whether it has subject matter jurisdiction, is even arguably incorrect, much less in conflict with either a decision of this Court, other state courts or federal law. To the contrary, that determination is in full accord with controlling decisions of this Court. The result sought by the petitioners, that state courts must abdicate their jurisdiction on mere allegations, is unsupportable and could leave plaintiffs, such as Respondent, without any forum to pursue their claims.

It is respectfully submitted that the writ of certiorari should be denied.

Respectfully submitted,

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## APPENDIX A – JUDGMENT OF THE 17TH JUDICIAL DISTRICT COURT FOR THE PARISH OF LAFOURCHE, STATE OF LOUISIANA AUGUST 7, 1995

| | |
|---|---|
| THE LOUISIANA LAND AND EXPLORATION COMPANY | NO. 72464 DIV. B |
| VERSUS | 17TH JUDICIAL DISTRICT COURT |
| SIDNEY VERDIN, ET AL | PARISH OF LAFOURCHE |
| | STATE OF LOUISIANA |

FILED: _____ _____
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### JUDGMENT

This matter came on for trial on the merits on July 31 and August 1, 1995. In attendance for the parties were:

Donald L. Peltier
Charles D. Marshall, Jr.
David N. Schell, Jr.

Counsel for plaintiff, The Louisiana Land and Exploration Company

Mary W. Riviere
Joel R. Waltzer
Jennifer N. Willis

Counsel for defendants, Sidney Verdin, Wickliff Verdin, Jake Billiot, Author Billiot, Alton Verdin, Jay Naquin, John Verdin, Jr. and Forest Billiot, Jr.

After considering the testimony of the witnesses, the evidence submitted and the arguments of counsel [and after directing a verdict in favor of Jake Billiot, Author

Billiot, Alton Verdin, Jay Naquin, John Verdin, Jr. and Forest Billiot, Jr.], the Court, for reasons orally assigned, finds, with respect to the following described property:

> Section 27: NE 1/4 and N 1/2 of NW/4 and NW 1/4 of SE 1/4 and E 1/2 of SE 1/4 and W 1/2 of SW 1/4; and
>
> Section 28: All except NE 1/4 of NE 1/4
>
> in Township Nineteen (19) South, Range Twenty (20) East, Lafourche and Terrebonne Parishes

that: (1) plaintiff, The Louisiana Land and Exploration Company had possession of the said property at the time the disturbances of defendants, Wickliff Verdin and Sidney Verdin occurred; (2) plaintiff, The Louisiana Land and Exploration Company had such possession quietly and without interruption for more than a year immediately prior to the disturbances; (3) the disturbances were one in fact but which did not amount to an eviction; and (4) this action was instituted within a year of the disturbances. Therefore, IT IS ORDERED, ADJUDGED AND DECREED that:

1. The Louisiana Land and Exploration Company's right to the possession of the said property is hereby recognized and maintained;

2. A permanent injunction is hereby issued against Sidney Verdin and Wickliff Verdin restraining, enjoining and prohibiting them, any agents, employees and all persons, firms or corporations acting or claiming to act in either of their behalf, or in concert with either of them, from trespassing, disturbing or in any way interfering with The Louisiana Land and Exploration Company's possession of the said property;

3. Sidney Verdin and Wickliff Verdin are ordered to assert any adverse claim of ownership of the said property within sixty days after the date this judgment becomes executory, or be precluded thereafter from asserting the ownership thereof;

4. Judgment in the amount of Nine Thousand Two Hundred Forty and No/100 ($9,240.00) dollars, together with legal interest from the date of judicial demand, is hereby rendered in favor of The Louisiana Land and Exploration Company and against Wickliff Verdin;

5. Sidney Verdin is hereby ordered to remove, upon twenty-four (24) hours advance written notice to LL&E of the date and time of said removal activities, any and all buildings, butterfly nets, pilings and other structures situated on the said property and placed thereon or claimed by him within sixty (60) days of the date of the signing of this Judgment, failing which, LL&E may demolish and remove same at the expense of Sidney Verdin; and

6. All costs of this proceeding are assessed against Sidney Verdin and Wickliff Verdin.

Judgment read, rendered and signed in Thibodaux, Louisiana, this 7th day of August, 1995.

/s/ Jerome J. Barbera III
JUDGE